1924

G.F.72

Department of L.R. & Sett

OFFICE Board of Rev

STATION Madras

Mis. **No.** 645

Dated 14-3-24

3.35
to
14.3

To whom sent		Date	Initials
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(SUBJECT.)

Escheat (South Kanara) — Appointment of Chikdie Vge — Protest of Poovam Hegde — Proceedings dropped

Not to be written in this space or on permanent records

B874 Ref A 3848-24 A 1-52

R. F. XVIII. W. 1

Application for declaring immoveable property Escheat

South Kanara District.

BOARD ... 26 FEB 1924 ...

1. Taluk.	Uppinangadi Taluk.
2. Village.	Chibidre.
3. Description of property.	S.No.& Sub division No. / Description. / Extent. / Assessme
4. Area in acres.	24/2 I Wet 1.91 7- 3- 30/2 II Wet 0.55 1- 2- 18/1 II Wet 3.77 11- 5- 18/3B III Wet 5.26 7-14-
5. Assessment or quit-rent.	33/7 II Wet 1.35 2-11- 17/7 II Wet 0.24 0- 6- 18/3A III Wet 2.65 4- 0- 33/4 Dry 0.51 0- 4- 15/2 Dry 0.62 0- 4-
6. Estimated yearly rent value.	Rs.130-0-0. ✓
7. Estimated market value.	Rs.1400-0-0 roughly.
8. Date of the death of the last owner.	September 1895.
9. Date of publication of notice inviting claims.	July 1922.
10. Names of claimants & their relationship to the deceased.	Gummanna Kottari. He alleges that he is the son of Nagamma, said to be the grand niece of the deceased.
11. Particulars of objections raised.	Please see item 10 above.
12. Collector's recommendation.	Please see separate sheets attached.
	Dated 18-2-1924 / For Collector.

To the Board. 2-R.Sec'tat.

Rec'd 22-2-24

The property described in columns 3 to 5 above belonged to one Puvani Hegde, a Jain governed by the Aliyasanthana Law of Succession.

2. On 2nd June 1882 he seems to have mortgaged all his properties with the exception of S.No.24/2 to one Govinda Kedilaya for Rs.200 for a term of 5 years with the stipulation that the mortgagor should pay interest at the rate of Rs.16 per annum. S.No.24/2 which was not included in the above mortgage was stated to have been given on mulgeni to one Madrabettu Sitaramaya for an annual rent of Rs.9/-. This land is now in the possession of Venkatakrishna Hebbara, the successor-in-interest of Sitaramaya.

3. Govinda Kedilaya's mortgage right passed to his brother's son Subraya Kedilaya at the family partition in 1893, On 18th March 1896 one Nagamma who called herself the grand-niece of the deceased, executed a fresh mortgage for Rs.200/- in favour of Subraya Kedilaya, the consideration being the amount of Rs.200/- borrowed by the deceased as per the mortgage deed of 1882, the accumulated interest of Rs.100/- having been remitted by the mortgagee. Subraya Kedilaya's son, Narayana Kedilaya sold the property on 2nd November 1907 to one Ganapathy Bhatta for Rs.500/-. A few days later, i.e., on 28th November 1907 this Ganapathy Bhatta re-conveyed the property for the same amount to Narayana Kedilaya's wife Bhagirathi. A portion of this property, viz., S.No.30/2 was sold by her on 18th January 15 to one Kaveramma for Rs.100/- and another portion consisting of S.Nos.18/1 & 3B sold on 29th September 1920 to Jinaraja Shetty for Rs.1000/-.

4. From what has been stated above, it would appear that the muli right over the property was not sold by the deceased to the Kedilaya family. But Jinaraja Shetty has produced an un-registered sale deed purporting to have been executed by the deceased himself on 2nd July 1895 transferring

the muli right to Subraya Kedilaya for Rs.500/-. This --- document does not contain either the signature or the ----- thumb impression of the executant, but only the mark ⊜(8) It has been attested by 4 witnesses all of whom are now --- reported to be dead. Its genuineness seems to be highly suspicious for the following reasons:-

(i) No mention of it is made in the mortgage deed executed by Nagamma in 1896. The mortgagee Subraya Kedilaya would certainly not have accepted this mortgage, if the --- property had really been sold to him in the previous year as is now alleged.

(ii) Even so late as 1900 when an enquiry was held in the matter of the transfer of patta of the deceased's ----- property, this Subraya Kedilaya did not claim absolute ---- ownership over the property, but restricted his claim to -- only mortgage interest.

(iii) In the sale deed of 2nd November 1907 there is - no reference whatever to the alleged sale deed of 2nd July 1895.

5. Next, as regards claimants to the property, one Gummanna Kottari has come forward as an heir. He claims to be the son of Nagamma who styled herself as the grand-niece of the deceased in the document of 1896. He says that he has heard from one Brahmaya Hegde that his mother Nagamma -- was the daughter of the deceased's sister. Brahmaya Hegde's uncle, the Potel of Mundaje and Narayana Rao, Shanbhogue of Charmady support him saying that Brahmaya had told them that Gummanna is the heir to the deceased. Brahmaya, however, says that the claimant himself had come to him in about ---- February 1921 alleging that he was the son of Nagamma. Another person examined on behalf of the claimant, viz. Narayana Kedilaya does not claim any personal knowledge of - the relationship of the claimant to the deceased. Chandaya Kajava who was originally examined says that Nagamma had --- told him that she was an heir to the deceased. These ----- statements also do not go far. The only evidence against -

Petn at pp 167-171 (M)

Government is that of Santaraja Shetti who says that Nagamma is a member of the deceased's family, but it loses much of - its value in the face of his admission that he knows nothing of Nagamma's children.

On the other hand, Hosamane Subraya, Rudraya Shastry, Patel of Chibidre and Devappa Gowda, quite a disinterested witness, say that the deceased has left no heirs.

Further, during the patta transfer enquiry in 1900 the Village Officers had recorded a Mahazar of 4 persons who had all stated that the deceased was heirless. Thereupon the Deputy Tahsildar of Beltangadi published a notice in the District Gazette that the patta would be transferred in the name of Subraya Kedilaya on enjoyment right. As no objections were received to the proposed transfer, the order was made absolute on 30th November 1901. If Nagamma was an --- heir, she would certainly have come forward and claimed the patta as she was alive at that time. The deceased had ---- also executed a will on 1st June 1883 in favour of one Bommi whom he wanted to marry bequeathing all his property to her. The marriage did not take place and hence the will is of no effect. It is however of importance in that it contains a recital that the deceased was alone in his family.

p-18 of (M)

6. For all these reasons my predecessor, Mr.Nedungadi issued a notice dated 15th July 1922 in the District Gazette inviting claimants to the property. In pursuance of this notice Gummanna Kottari again put in a petition undertaking to prove his relationship to the deceased by means of ------- satisfactory oral and documentary evidence. A further ---- detailed enquiry was accordingly ordered. In this enquiry no documentary evidence was adduced, but 8 persons were ---- examined and all of them stated that the relationship set up by the claimant was true. As this evidence had not been -- produced at the original enquiry before the issue of Gazette notice, considerable suspicion attaches to it. The Government Pleader, Mangalore also is of the same opinion.

p.16 of (M)

pp.61-171 of (M)

p-171 of (M) 39

p.203 to 206 of (M)

p.213 of (M)

7. The persons in possession of the property were -

5 -4-

then called upon to state whether they were willing to --- surrender the property to Government after receiving the - original mortgage amount of Rs.200/- and the cost of ---- improvements made up to date. All these persons with the exception of the mulgenidar have declined to do so claiming exaggerated amounts by way of improvements. A suit has, therefore, to be filed against them for the recovery of -- the property. The mulgenidar has consented to pay to --- Government the future mulgeni interest of Rs.9/- per year.

p. 215 q (M)

pp 217-218 q (N1)

p. 218 q (M)

8. I request that the Board may be pleased to ----- declare the property as an escheat to Government and to -- approve the draft plaint prepared by the Vakil doing ----- Government work at Puttur and accepted by the Government - Pleader, Mangalore.

pp 6-7 C.P.

9. The records of enquiry (pages 1 to 238) are ---- submitted together with the records of K.R.138/1309 on the file of the Deputy Tahsildar, Beltangadi.

(M)

South Kanara Collector's office,
Mangalore, 18th February 1924.

D'Mambra 22.2
For Collector.

22-2-24

M.D'S.22/2.

6

In the District Munsiff's Court of Puttur.

O.S.No. of 1924.

Between

The Secretary of State for India in Council } Plaintiff

and

Bhagirathiamma and others Defendants.

Plaint under section 26 of the Civil Procedure Code.

The abovenamed Plaintiff states as follows:-

I. Plaintiff is the Secretary of State for India in Council. His address for service of all processes is the Collector's Office Mangalore.

II. 1st Defendant Bhagirathi is the wife of Narayana Kedilaya and is a land holder residing in Chibidre village.

2nd Defendant Kaveramma is the widow of Madrabettu Annappaya and is a land holder residing in the said village.

3rd Defendant Jinnaraja Shetty is the son of -------- Guruvainkere Nagappa Shetty and is a land holder residing in Thotathady village.

III. (1) One Poovani Hegde of Chibidre village, who was a Jain by caste governed by the Aliyasanthana Law of ------- inheritance and who was the last owner of the immoveable --- properties described in the Schedule hereto, having died in or about the year 1895, without leaving any heirs, the ----- properties have escheated to Government.

(2) The Defendants, who are in wrongful possession -- of the several items of the aforesaid properties on the ---- strength of certain unauthorised alienations said to have -- been made by one Nagamma and some other individuals who had no interest therein, were called upon to surrender the ----- properties to Government but they decline to do so on ------ frivolous excuses. Plaintiff offered to Defendants Rs.200/- the mortgage amount due by the deceased Puvani Hegde under the document executed by him on 2nd June 1882 in favour of Govinda Kedilaya.

6-8 CF.

(3) The Defendants are not at all entitled to continue in possession of the plaint properties, but are bound to ---- surrender them to the Plaintiff.

(4) The cause of action for this suit has arisen since about 1895, in Chibidre village, within the jurisdiction of this Court. The liability of the properties to escheat came to the knowledge of Government only in 1921.

IV. The subject matter of this suit for purposes of --- jurisdiction and court fees is valued at Rs. ~~785-9-8~~ ✓

V. Plaintiff, therefore, prays for a decree and ------ judgment against the Defendants for:-

(1) Possession and delivery of the properties described below:- the same being valued atten times the assessment of Rs.27-14-0 and the approximate value of the buildings thereon being Rs.278-12-0 Rs.100- 0-0

2) Mesne profits of the properties for the past three years (1920-21 1921-22 & 1922-23) at Rs.91-5-10 per annum. Rs.274- 1-6

(3) -Do- from 1st April 1923 to this date Rs.

(4) Costs of this suit with interest thereon at 6 per cent and

(5) Future mesne profits from this date at the above rate and such other relief as the Plaintiff may be found entitled to, under the circumstances of the case.

****

A. Schedule.

Description of the immoveable properties.

District.	Sub ----- District.	Village.	Survey and Sub division. numbers.	Class of land.	Extent. A. C.	Assessment. Rs.as..ps.	Remarks.
South Kanara.	Beltangadi.	Chibidre.	30 2	Wet	0 55	1- 2- 0	
			18 1	Wet	3 77	11- 5- 0	
			18 3-B	Wet	5 26	7-14- 0	
			33 7	Wet	1 35	2-11- 0	
			17 7	Wet	0 24	0- 6- 0	
			18 3-A	Wet	2 65	4- 0- 0	
			33 4	Dry	0 51	0- 4- 0	
			15 2	Dry	0 62	0- 4- 0	

with the buildings bagayat trees &c standing thereon.

South Kanara Collector's office,
Mangalore, 18th February 1924.

P. Menon 22/2
For Collector.

M.D'S.22/2.

DRAFT FOR APPROVAL.

C.F. 20 (2)—4-2-14.

Enclosures.

Despatch No.

When given to fair-copying

Fair-copied by

Fair copy compared by

When despatched

Office.

Register No. B & 74/24, dated Q

From

Subject.

Escheat (South Kanara)-
Uppinangadi Tk - Chibidi
Uge - Property of Poovani He
- Proceedings dropped.

To

THE

Res (Mis). 645

14.3.24

In view of the lo
time which has elapse
from the date of the
death of the last owne
and the uncertainty of
the value of the improv
-ments, which it is
difficult to prove or
disprove after so many
years, the Board Cons
-ders that the ~~case~~
escheat proceedings ma
be dropped in this case.

By order

Sd/-

P-1 CF Cd. 8.

To
The Collector of South
Kanara with two
files returned.

C.F. 16—5,84,259—17-12-21. (6)

OFFICE NOTE.

M,
S
A/S
(Thro' A/Sec.)

SUBJECT. Escheet (South Kanara) - Uppinangadi Taluk - Chibidre Vge - Property of Poovani Hegde

From

pp 1-5 C.F.

Register No. B.874/24

To A.S.

pp 1-5 C.F.

The collector of South Kanara has submitted a report in the prescribed form for declaring escheat the ~~real~~ properties belonging to one Poovanna Hegde of Chibidre Vge - Uppinangadi Taluk, who died ~~on~~ in the year 1895 The properties have been alienated to different ~~pe~~ individuals by persons who are not the legal heirs of the deceased The properties are now claimed by one Gummamma Kottari son of Nagamma who is alleged to be the grand niece of the deceased.

p. 1 C.F. Col. 8

p. 2 C.F. ¶ 3

p. 1 C.F. Col. 10.

2. The local Govt Pleader who has been consulted in the matter states that he has gone through the

pp 209 - 214 of (M)

p. 209 of (M)

cords of the case carefully and he is
opinion that Gummamma Kottan has p. 214 of (M)
t made good his contention that
on his mother Nagamma was
heirs of the deceased for orders
ether the property may be declared
heat

As the aliences refuse to surrender p. 5 C.S. ¶ 7
properties to Govt. on friendly
ounds the collr has submitted
r the approval of the Board a
raft of the plaint to be filed G.O. 1976 3 Cons. Slip
r the recovery of the properties p. 436 of Vol I of RBs
om the aliences

The draft plaint (pp 6 to 8) may
be appd The limitation period for Govt is 60 years

In the draft plaint, the claim
for mesne profits have been claimed
for 3 yrs only According to the G.P.
Madras mesne profits can be claimed for para 6 of the
more than 3 yrs G.P's opinion
at p 3-(K)

For orders of a.* in the case
at (K). The claim to mesne profits × para 4 of G.O. 3 Revs (K) 27.2.24
may be restricted to 3 yrs To be on the
Safe Side it is desirable, to claim mesne profits
for 5.3.24 – for more than three years and leave the final decision to the Court

-7:1 The Colr may be asked to enter the Correct Amounts under para V 2 & 3 (para 2 of meane profits for more than 3 years are to be Claimed

J.P.s.2en
8.3.24

The property may be declared escheat: as the value of the property is Rs 1400/- (below Rs 10000 - the Pg's limit) the Pg'd can pass orders in this case

As for recovering possession of the properties a suit may be filed as proposed by the Colr: the draft plaint accompanied under A may be approved.

As regards meane profits it seems desirable to restrict it the claim to three yrs following the precedent cie (K) a portion of the property has been sold to punaraja Shetty on 29/9/20, another portion to Kaveramma on 18/4/15 & the rest remains with Bhagirathi who purchased the property on 28/11/07 - It is not possible to claim meane profits from these alienees from a Uniform date - the claim will vary with the amount specified in each alienation. This can be avoided if we restrict the claim to three years

I am very dubious about this case - many 30 years old: Value Rs 1400 held on mortgage by a man who will have a valid claim for improvements. Is there any evidence as to how much can be claimed on this head? If the amount is considerable it will along with the legal expenses eat up the assets belonging to the heritage

7/3/24

M/S
A.S.
(Through A.Sec.)

To A.S.

Please see the Secys Remarks on the previous page. The parties claim pp217-218 of M
Rs 2305-0-0 and some value in kind towards original cost and improvements as shown below:

	original cost	Improvements	Total.
(1) Bhagirathi	Not known	Rs 1000-0-0	Rs 1000-0-0.
(2) Kaveramma	Rs 100-0-0	Rs 175-0-0	Rs 275-0-0
(3) Timaraja Shetty	Rs 1000-0-0.	Rs 30-0-0 + some value in kind.	Rs 1030-0-0.
	Rs 1100-0-0	Rs 1205-0-0 +	Rs 2305-0-0

2. The Deputy Tahsildar found no improvements in any of the lands except in S. No. 18/1 in the enjoyment of No (3) above. He estimates the value of improvements to be Rs 300-0-0. p.218 of M

Probably only recent improvements could be found by the Deputy Tahsildar. Mr Wadsworth apprehension seems to have considerable foundation

The case may be decided, in view of the long time which has elapsed, the uncertainty of the value of the improvements, which, if in dispute, it would be difficult to ascertain from a disinterested source so many years hence.

To A.S.

Draft submitted.

Jr
14/8/24

B
10.3.24
B
10.3.24

AS (A.R.)
(Through A.Sec.)

M
12.III.24